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## **REMARKS**

Applicants hereby reply to the Office Action mailed on May 4, 2005 within the shortened statutory three month period for reply. Claims 1-21 were pending in the application and the Examiner rejects claims 1-21. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Applicant asserts that the application is in condition for allowance and reconsideration of the pending claims is requested.

### **Rejection under 35 U.S.C. § 112**

The Examiner rejects claim 4 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicants amend claim 4 to clarify the antecedent basis.

### **Rejection under 35 U.S.C. § 103(a)**

The Examiner rejects claims 13-16 under 35 U.S.C. § 103(a) as being unpatentable over Killcommons et al., U.S. Patent No. 6,424,996 ("Killcommons") in view of Moshfeghi et al., U.S. Patent No. 6,076,166 ("Moshfeghi"). Applicants respectfully traverse these rejections.

In general, Killcommons is limited to a system for storing medical multimedia files wherein the files can be assembled into an email package and/or viewed within a browser application. Specifically, Killcommons discloses a tool to facilitate management of medical images and information which can be disseminated to users through either email communications or the Web. Medical images may include digital scans, photographs, video and sound. The Killcommons system collects files from various locations, assembles the file elements and delivers them to a user within an email message or web page. A user viewing a patient's electronic file may view various images and/or multimedia clips through an interface. The interface provides a number of tools to enable the user to select and manipulate images, create text and voice annotations and perform measurements and angle calculations.

The Examiner correctly notes that Killcommons "do[es] not disclose that the user is authorized, or that the user inputs a unique identifier" (page 3, paragraph 4). However, the Examiner asserts that Moshfeghi discloses this limitation.

Moshfeghi is limited to a system for managing patient medical information via a secured hospital intranet. Specifically, Moshfeghi discloses a web server facilitating dynamic assembly of web pages based on user information such as the user's relationship with the hospital, presumed needs and access rights. The Moshfeghi system stores preferences for each user and uses preferences information

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to dynamically create web pages to best suit the user's screen resolution, network connection, browser capabilities, environmental lighting and the like. When a user accesses the Moshfeghi system, the user is identified by IP address, smart card, active badge, etc. in order to retrieve the appropriate preferences information.

While both Killcommons and Moshfeghi disclose systems for compiling medical information including text and multimedia for presentation to remote users, each are generally directed toward systems for facilitating communication of medical information, rather than a diagnostics tool for the selection of implant devices. For example, Killcommons discloses that, "it is often necessary to examine a subject and communicate the results of the examination to a remote place" (Column 1, Lines 23-25).

Those skilled in the art will appreciate that in the treatment of illness and injury where a medical implant is required; there may be a number of viable options where only one is the optimal solution. There are a number of variables to consider when selecting an optimal implant device for a patient. Among others, the patient's unique anatomy must be considered to ensure the correct selection of an implant device, where dimensions, angles and overall shape of the device must closely match the patient's anatomy. Moshfeghi discloses a measurement control to "provide angle of deviation between two selected vectors on the image" (Column 14, Lines 27-28). However, measurements alone are not sufficient for selecting an optimal implant. Physicians routinely overlay actual implant devices over an x-ray of the patient's affected area to visually ensure that the shape of the device is consistent with the patient's anatomy.

Moreover, there are a large number of implant and prosthesis devices available from a number of manufactures and variances between them most certainly exist. For example, a hip prosthesis from two different manufactures may each have unique surgical techniques associated with implantation. Therefore, it is important to provide the physician with such information during the device selection process, as this information may also help determine the optimal solution. As such, neither Killcommons, Moshfeghi nor a combination thereof disclose or suggest, "displaying information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information, cost, description, indication of use, and instruction for use" as similarly recited by amended independent claims 13 and 14.

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Claims 15 and 16 depend from independent claim 14. Claims 15 and 16 are differentiated from the cited references for at least the same reasons as set forth above, as well as their own respective features.

The Examiner rejects claim 1-12 and 17 under 25 U.S.C. 103(a) as being unpatentable over Killcommons in view of Moshfeghi in further view of Kennedy, U.S. Patent No. 5,360,446 ("Kennedy") and in further view of Knight, U.S. Patent No. 6,344,853 ("Knight"). Applicants respectfully traverse these rejections.

The Examiner correctly notes that Killcommons in view of Moshfeghi "do[es] not disclose displaying a template on said web page, wherein said template comprises an image which said authorized user may place on one of said medical images" (page 5, paragraph 4). However, the Examiner asserts that Kennedy discloses overlaying a template on a medical image. The Examiner further asserts that "while the template disclosed in Kennedy is not displayed on a web page, it is known in the art that a template may be displayed on a web page, where the template is placed on an image or a product, as disclosed in Knight" (page 6 paragraph 1).

Kennedy discloses a system for interactively designing prosthetic implants using two x-ray images to create an implant topology which is later used to manufacture an implant. Knight is limited to a method for enabling remote users to superimpose product logos and other designs onto digitized images of a variety of products (e.g., coffee mugs, watches, baseball caps, tee shirts, etc.). According to Knight, a user superimposes graphics onto a digital image only to determine a design and design placement that best suits their needs and preferences.

Applicants assert that neither Kennedy nor Knight disclose, "displaying information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information, cost, description, indication of use, and instruction for use" as similarly recited by amended independent claims 1 and 17. As such, amended independent claims 1 and 17 and original dependent claims 2-12 are differentiated from the cited references for at least the reasons presented above in regard to independent claims 13 and 14, as well as their own respective features.

The Examiner rejects claims 18, 19 and 21 under 25 U.S.C. § 103(a) as being unpatentable over Killcommons in view of Moshfeghi in further view of Kennedy and Knight. Applicants respectfully traverse these rejections.

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The Examiner correctly notes that Killcommons "do[es] not disclose a database for storing at least one template, wherein said at least one template is configured to be displayed with one or more of said medical images." The Examiner further asserts that, "while the template disclosed in Kennedy is not displayed on a web page, it is known in the art that a template may be displayed on a web page, where the template is placed on an image or a product, as disclosed in Knight" (page 10 paragraph 2). Applicants respectfully disagree.

Applicants assert that neither Kennedy nor Knight disclose at least a, "database for storing information associated with said template wherein said information includes at least one of vender identifier, manufacturer identifier, part name, part number, procurement information, cost, description, indication of use, and instruction for use" as recited by amended independent claim 18. As such, amended independent claim 18 and original dependent claims 19 and 21 are differentiated from the cited references for at least the reasons presented above in regard to independent claims 13 and 14, as well as their own respective features.

The Examiner rejects claim 20 under 25 U.S.C. § 103(a) as being unpatentable over Killcommons in view of Kennedy and Knight. Applicants respectfully traverse these rejections. Claim 20 depends from independent claim 18 and therefore is differentiated from the cited references for at least the reasons presented above in regard to independent claim 18, as well as its own respective features.

Applicants respectfully submit that the pending claims are in condition for allowance. No new matter is added in this Reply. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 19-2814. Applicants invite the Examiner to telephone the undersigned, if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

Dated: July 28, 2005

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